

Attorney Docket No.: DEX-0142  
Inventors: Macina et al.  
Serial No.: 09/802,674  
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#### REMARKS

Claims 1-10 are pending in the instant application. The Examiner has subjected these claims to a Restriction Requirement as follows:

Groups I and II, claims 1-5 and 7, drawn to a method for diagnosing the presence and metastases of gastrointestinal cancer comprising comparing GSG levels, wherein the GSG comprising SEQ ID NO: 1 or 3, respectively, classified in class 424, subclass 9.1;

Groups III and IV, claims 1-5 and 7, drawn to a method for diagnosing the presence and metastases of gastrointestinal cancer comprising comparing GSG levels, wherein the GSG comprises a polypeptide encoded by SEQ DI NO: 1 or 3, respectively, classified in class 435, subclass 7.21;

Groups V and VI, claims 6 and 7, drawn to a method of identifying potential therapeutic agents wherein said agent binds to a GSG comprising SEQ ID NO: 1 or 3, respectively, classified in class 435, subclass 6;

Groups VII and VIII, claims 6 and 7, drawn to a method of identifying potential therapeutic agents wherein said agent binds to a GSG comprising a polypeptide encoded by SEQ ID NO: 1 or 3, respectively, classified in class 435, subclass 7.1;

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Groups IX and X, claims 8 and 9, drawn to a method of imaging gastrointestinal cancer comprising administering an antibody raised against a GSG comprising a polypeptide encoded by SEQ ID NO: 1 or 3, classified in class 424, subclass 130.1;

Groups XI and XII, claim 10, drawn to a method of treating gastrointestinal cancer comprising administering an agent which upregulates GSG, wherein the GSG comprises SEQ ID NO: 1 or 3, respectively, classified class 530, subclass 387.1; and

Groups XIII and XIV, claim 10, drawn to a method of treating gastrointestinal cancer comprising administering an agent which upregulates GSG, wherein the GSG comprises a polypeptide encoded by SEQ ID NO: 1 or 3, respectively, classified in class 530, subclass 387.1.

The Examiner suggests that the Groups are distinct, each from the other. Specifically, with respect to Groups I-XIV, the Examiner suggest that the method differ in objective, steps and parameters and in the reagents used. Further, the Examiner suggests that SEQ ID NO:1 and SEQ ID NO:3 are structurally unrelated and encode different products which are structurally and functionally distinct.

Applicants respectfully traverse this restriction requirement.

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At the outset, Applicants respectfully disagree with the Examiner's suggestion that SEQ ID NO:1 and SEQ ID NO:3 are separate inventions because they are structurally unrelated and encode products which are structurally and functionally distinct. As shown in the instant specification, both SEQ ID NO:1 and SEQ ID NO:3 are GSGs useful in the diagnosis of gastrointestinal cancer. This disclosure of relationship between the sequences clearly meets the requirements for species as set forth in MPEP 806.04(b).

Further, MPEP §803 provides two criteria which must be met for a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A proper search of the prior art relating to the either of the GSG polynucleotides of Group I or II should also reveal art relating to polypeptides encoded thereby as well as additional uses thereof as set forth in the claims of Groups III-XIV. Thus, it does not appear that a serious burden would be placed upon the Examiner if restriction were not made.

Accordingly, since this Restriction Requirement does not meet both criteria as set forth in MPEP § 803 to be proper, it is

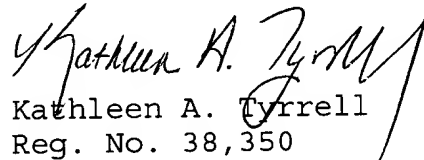
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respectfully requested that this Restriction Requirement be withdrawn.

However, in an earnest effort to be completely responsive, Applicants elect to prosecute Group II, claims 1-5 and 7 wherein the GSG comprises SEQ ID NO:3, with traverse.

Applicants believe that the foregoing comprises a full and complete response to the Restriction Requirement of record.

Respectfully submitted,

  
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